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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

In re: Cathode Ray Tube (CRT)  
ANTITRUST LITIGATION

Master File No. 3:07-md-05944-SC

This Document Relates To Individual Case No.  
3:12-cv-02648-SC

MDL No. 1917

P.C. RICHARD & SON LONG ISLAND  
CORPORATION, et al.,

Plaintiffs,

vs.

HITACHI, LTD., et al.,

Defendants.

**ROBERT THOMPSON DECLARATION  
IN SUPPORT OF DIRECT ACTION  
PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT BASED UPON  
PLAINTIFFS' PURPORTED FAILURE  
TO DISTINGUISH BETWEEN  
ACTIONABLE AND NON-ACTIONABLE  
DAMAGES UNDER THE FTAIA**

Judge: Hon. Samuel P. Conti  
Court: Courtroom 1, 17th Floor  
Date: February 6, 2015  
Time: 10:00 a.m.

I, Robert Thompson, hereby declare as follows:

1. I am currently Executive Director of MARTA Cooperative of America, Inc. ("MARTA"). I make this declaration based on my personal knowledge.

3. During the Relevant Period, MARTA made its purchases of CRT Products exclusively from locations in the United States, as reflected at pages 74 to 76 of MARTA's corporate representative deposition testimony, a true and correct copy of which is attached hereto as Exhibit 1.

8           4.       During the Relevant Period, MARTA purchased CRT Products exclusively from  
9 vendors which were within the United States, as reflected at page 41 of MARTA's corporate  
10 representative deposition testimony, a true and correct copy of which is attached hereto as  
11 Exhibit 2.

12           5.       During the Relevant Period, MARTA purchased CRT Products directly from  
13 Defendants, co-conspirators and their affiliates, all of which were located in the United States,  
14 as reflected in the purchase data MARTA produced in this litigation.

6. MARTA's vendors, including Defendants, co-conspirators and their affiliates, shipped these CRT Products to MARTA's warehouse or members, all of which were located in the United States, as reflected at pages 81 to 82 and 89 to 93 of MARTA's corporate representative testimony, a true and correct copy of which is attached hereto as Exhibit 2.

20 Executed this 17th day of December, 2014, at Englewood, Florida.

By: Robert J. Thompson  
Robert Thompson

# Exhibit 1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT) )  
ANTITRUST LITIGATION ) Case No.  
\_\_\_\_\_ ) 07-5944 SC  
 )  
This Document Relates to: ) MDL No. 1917  
 )  
ALL ACTIONS )  
 )  
\_\_\_\_\_ )

CONFIDENTIAL TRANSCRIPT

VIDEOTAPED ROBERT THOMPSON, AS CORPORATE  
DEPOSITION OF: REPRESENTATIVE OF MARTA  
COOPERATIVE OF AMERICA, INC.

TAKEN ON BEHALF OF: THE TOSHIBA DEFENDANTS

DATE TAKEN: FRIDAY, FEBRUARY 14, 2014

TIME: 9:00 A.M. - 5:16 P.M.

PLACE: THE WESTIN TAMPA BAY  
7627 COURTNEY CAMPBELL CAUSEWAY  
EXECUTIVE BOARD ROOM  
TAMPA, FLORIDA 33607

TAKEN BEFORE: NINETTE BUTLER, RPR, CRR,  
FPR AND NOTARY PUBLIC

1 vendors, would sometimes the director ask for additional  
2 advertising funds? Do you recall anything of that  
3 nature?

4 A. Yes.

11:09 5 Q. Okay. Under what circumstances?

6 A. Under virtually every negotiation.

7 Q. You mentioned that the -- these negotiations  
8 between MARTA's director and the vendors would occur  
9 sometimes on an annual basis, sometimes more frequently  
11:09 10 based on the market. Who would initiate new  
11 negotiations in terms of, hey, it's time for a new  
12 price? Would that come from the vendors or would that  
13 come from MARTA itself?

14 A. Well, both. If there were changes in the  
11:10 15 market, it would generally come from MARTA to the  
16 vendor. If the vendor was changing models or had a need  
17 to increase prices or decrease prices, that would come  
18 from them.

19 Q. When these negotiations occurred, where --  
11:10 20 where did they occur? What was the physical location,  
21 if you recall?

22 A. It could have been at MARTA's office; it could  
23 have been at the vendor's office; or it could have been  
24 at the trade shows or other meetings.

11:11 25 Q. You mentioned trade shows. What trade shows

1 are you referring to?

2 A. Generally speaking, MARTA always attended the  
3 Consumer Electronics Show. Sometimes MARTA would attend  
4 the CEDIA -- it's C-E-D-I-A -- show. And there were  
11:12 5 other industry events.

6 Q. Have you heard the term "vendor show" before?

7 A. Yes.

8 Q. What does that term mean?

9 A. That would be a show that a vendor would put  
11:12 10 on and invite their customers.

11 Q. Did MARTA ever sponsor shows on its own?

12 A. Yes.

13 Q. Okay. And did MARTA have any sort of name to  
14 describe these shows?

11:12 15 A. I think it was just called the MARTA Buy Fair.

16 Q. How often did these MARTA Buy Fairs occur?

17 A. Generally, MARTA held three shows annually:  
18 one in the spring, one in the midyear, and one in the  
19 fall.

11:13 20 Q. And where were these shows located?

21 A. In different portions of the country.

22 Generally, they had a show in -- near -- in Phoenix,  
23 Phoenix area. That was a given. And then they would  
24 move some of the other shows around. I remember they've  
11:13 25 done shows in Dallas and other shows in Nashville.

1 Q. And what would occur at these MARTA Buy Fairs?

2 A. They would have a couple of days of member  
3 meetings. Some of it would be focused on member  
4 education, business practices and the like. And then  
11:13 5 they would have MARTA corporate business. There would  
6 be some discussion on that. And then there would be  
7 time provided for vendors to show their product to the  
8 members. And there would be -- generally speaking, the  
9 vendors that attended the show would then provide  
11:14 10 specials that the members could buy.

11 Q. Were these specials different from the vendor  
12 programs that we have been discussing?

13 A. Yes.

14 Q. What portion of MARTA's members would  
11:14 15 typically attend these MARTA Buy Fairs?

16 A. It would range. Generally about two-thirds of  
17 the members would attend.

18 Q. And what portion of MARTA's vendors would  
19 typically attend the MARTA Buy Fairs?

11:15 20 A. Virtually all of the members -- or all of the  
21 vendors that participated in the central bill program  
22 and occasionally some of the vendors that did not.

23 Q. Would the vendors who participated at the  
24 MARTA Buy Fairs, would they provide any sort of cash  
11:15 25 consideration for MARTA to help sponsor the fair?

# Exhibit 2



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
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FPR AND NOTARY PUBLIC

1 count for that office.

2 Q. Other than in Scottsdale and in New Jersey,  
3 did MARTA have offices anywhere else during the relevant  
4 time period?

09:54 5 A. No.

6 Q. Where did the negotiations for purchases take  
7 place, the Scottsdale office or the New Jersey office?

8 A. A variety of places. They might have taken  
9 place at the MARTA offices. They might have taken place  
09:54 10 at the vendor's office. They might have taken place at  
11 various trade shows or meetings.

12 Q. In your view, what was the purpose of MARTA  
13 during the relevant time period?

14 A. The purpose of MARTA was to utilize the  
09:55 15 collective volume of its members to purchase product at  
16 the most favorable acquisition cost possible for its  
17 members.

18 Q. So what types of products would MARTA buy?

19 A. MARTA bought appliances, consumer electronics.

09:56 20 Q. Anything else?

21 A. I mentioned that computers, but that was -- I  
22 think that was a one-shot deal that failed.

23 Q. Would it be fair to say that MARTA would buy  
24 these products on behalf of its members?

09:56 25 A. Yes.

1 numbers and the prices. So when they would see a core  
2 model discount applied to a model, that was kind of the  
3 identifier.

4 Q. Maybe that answers my question.

11:25 5 So the core model discount, that would be --  
6 that would be transparent in the sense that the members  
7 would understand that I am purchasing a core model. I  
8 am getting a separate core model discount as a result.

9 A. Yes.

11:25 10 Q. Mr. Thompson, have you ever heard of the  
11 phrase "holdback"?

12 A. Yes.

13 Q. And what does the word "holdback" mean to you?

14 A. It was the money that was held back in this  
11:26 15 round -- rounding process that I described.

16 Q. So holdbacks, would they always be positive or  
17 would they sometimes be negative?

18 A. Well, I guess I don't quite understand the  
19 question.

11:26 20 Q. Maybe we'll circle back and talk about this  
21 later. We'll talk about this more later on in the  
22 discussion.

23 Did -- for the MARTA's members, were they all  
24 located in the United States, or were some located  
11:27 25 outside of the United States?

1 A. All were in the United States.

2 Q. Let's talk about central billing.

3 When did central billing first begin at MARTA?

4 A. Well, MARTA was formed in 1966, and it began  
11:28 5 early on. I don't know whether it's '66 or '67 or '68,  
6 but from its beginning.

7 Q. And what is the purpose of central billing?

8 A. To utilize -- to combine the member volume  
9 into a larger volume and utilize that one volume for  
11:28 10 purchasing power, negotiate the best possible pricing  
11 from the members -- or from the vendors.

12 Q. How was it that -- how would MARTA negotiate  
13 better deals for those vendors that did not participate  
14 in central billing? I think you earlier -- earlier you  
11:29 15 said about 70 percent of the vendors participated in  
16 central billing. So for the 30 percent who did not  
17 participate in vendor billing, how would MARTA  
18 successfully negotiate good prices for its members?

19 MR. SHAW: Object to the form.

11:29 20 THE WITNESS: In that case, MARTA was not  
21 involved. The vendors negotiated directly with the  
22 members.

23 BY MR. LAU:

24 Q. In those instances where central billing was  
11:30 25 not used, would the members still be able to take

1 the member.

2 Q. And we agreed before that these accommodation  
3 sales were very unusual; is that correct?

4 A. Yeah.

11:40 5 Q. Did MARTA ever keep merchandise in inventory?

6 A. Yes.

7 Q. When would this occur?

8 A. In the '90s, MARTA had public warehousing.

9 Q. And why would -- what type of merchandise was  
11:41 10 stored in the warehousing? Was it electronics or was it  
11 appliances or furniture?

12 A. Most of it was appliances. There were  
13 occasions where some electronics were stored in the  
14 warehouse.

11:41 15 Q. Okay. Let's take it step by step.

16 For appliances, why was MARTA holding  
17 inventory of appliances in the 1990s?

18 A. Again, that was a negotiated part of the  
19 program. There were some advantages. If you shipped  
11:42 20 full containers or truckloads of a product category and  
21 in some cases we would make a couple of stops to various  
22 members and then the balance of the load would deliver  
23 out to the warehouse. And we would then ship -- have  
24 that on hand to ship to other members.

11:42 25 Q. The scenario you just described would apply

1 mostly to appliances, and you said occasionally to  
2 electronics.

3 A. Yes.

4 Q. What proportion of inventory of merchandise  
11:42 5 consisted of electronics during the relevant time  
6 period?

7 A. Small, probably less than five percent.

8 Q. And the small, less than five percent, of  
9 electronics, did that include CRT televisions?

11:43 10 A. Yes.

11 Q. In those instances where CRT televisions were  
12 stored in inventory, had a member placed an order for  
13 those televisions?

14 A. No. MARTA would have placed that order.

11:43 15 Q. And would MARTA -- would MARTA pay for those  
16 CRT televisions?

17 A. Ultimately, yes.

18 Q. When it was stored in inventory, would the  
19 vendor issue an invoice to MARTA immediately for  
11:43 20 payment?

21 A. It would have been the same invoice and same  
22 terms that -- with the other orders.

23 Q. Okay.

24 A. Just would have had a different "Ship To."

11:44 25 Q. I see. And what was the rationale again for

1 storing this merchandise in inventory?

2 A. Well, appliances are big boxes, and our  
3 members didn't have as much -- they had just so much  
4 warehouse space. So MARTA, as a convenience, had public  
11:44 5 warehousing that would help the members so that they  
6 could take in more TVs than you could take in  
7 refrigerators. And that was the rationale behind it.

8 Q. So, in your mind, you think that of all the  
9 merchandise that was inventoried, perhaps five percent  
11:44 10 or less was electronics, right?

11 A. Yes.

12 Q. And of that five percent or less that was  
13 electronics, what proportion do you think was CRT  
14 televisions?

11:45 15 A. It would have been all of it because we  
16 discontinued the warehousing in ninety -- I think it was  
17 '95 or '6.

18 Q. If CRT televisions were sold out of inventory  
19 in this manner, would that fact be reflected in MARTA's  
11:45 20 transactional data? Would that be stored somehow  
21 electronically?

22 A. Yes.

23 Q. So would it be fair to say that if we look  
24 through all the transactional data, there will be some  
11:45 25 sort of -- we can just take a step back.

1           How would it be indicated? How would the  
2           transactional data reflect that a sale was being made  
3           out of inventory?

4           A.    It would be in the sales data.

11:46 5           Q.    Is there a special column?

6           A.    That, I don't know.

7           Q.    Do you recall any sort of special code?

8           A.    No.

9           Q.    Who would know? Would Ms. Fields know the  
11:46 10          answer to that?

11          A.    Yes.

12          Q.    Was there ever an instance where sales were  
13          made to a member and then somehow the merchandise was  
14          returned? It was defective or --

11:47 15          A.    Generally speaking, the merchandise would have  
16          been returned. Once it ships to the dealer, the dealer  
17          would refuse the shipment if there was some damages or  
18          whatever.

19          Q.    Sure.

11:47 20          A.    Now, there could have been some concealed  
21          damage. That would have been a onesie, twosie  
22          situation. And that would have been part of the program  
23          that I mentioned earlier today, the return allowance  
24          program, or it would have been an element of the overall  
11:47 25          vendor program.



1 Q. So if merchandise had to be returned because  
2 it was defective, would the member send it directly to  
3 the vendor?

4 A. To the point the vendor selected.

11:48 5 Q. I see. But the member would not return such  
6 merchandise to MARTA, correct?

7 A. Correct.

8 Q. And when did this practice of holding  
9 merchandise in inventory, do you recall what year it  
11:48 10 ended?

11 A. I thought it was '95 or '96.

12 Q. And let's just go back to CRT televisions that  
13 were held in inventory. Do you recall the length of  
14 time such televisions would have been held in inventory?

11:49 15 A. No, but it would have been -- the goal would  
16 have been a very short period of time.

17 Q. In your mind, what's a short period of time?

18 A. Ninety days or less.

19 Q. Do you recall where -- where the warehouses  
11:49 20 were located that held this inventory?

21 A. There was one warehouse. It was in Chicago.

22 Q. And what was the reason again for buying the  
23 merchandise that would be sent to inventory?

24 A. Maybe I can give you an example.

11:50 25 Q. Sure. That would be great, Mr. Thompson.